

IN THE SUPREME COURT OF FLORIDA

INQUIRY CONCERNING A
JUDGE: CYNTHIA A. HOLLOWAY
NO.: 00-143

Florida Supreme Court
Case No.: SC00-2226

**JUDGE CYNTHIA A. HOLLOWAY'S RESPONSE TO THE JUDICIAL
QUALIFICATIONS COMMISSION'S MOTION IN OPPOSITION.**

COMES NOW, Respondent, CYNTHIA A. HOLLOWAY, by and through her undersigned counsel and files this Response to the Judicial Qualifications Commission's Motion in Opposition to Judge Cynthia A. Holloway's Motion to Stay Depositions.

1. Special Counsel's Motion in Opposition to the Respondent's Motion to Stay Deposition attacks this Court's jurisdiction to consider Respondent's Motion to Stay. The primary contention in Special Counsel's argument is that Respondent should have first sought relief from the Hearing Panel prior to filing the Motion to Stay in the Florida Supreme Court.

(See Judicial Qualifications Commission's Motion in Opposition to Judge Cynthia A. Holloway's Motion to Stay Depositions, p. 3).

2. However, Special Counsel acknowledges that Respondent filed a Motion for Protective Order before the Judicial Qualifications Commission Hearing Panel which requested the Hearing Panel to compel Special Counsel to disclose the witness statements prior to Respondent's deposition. (See Judicial Qualifications Commission's Motion in Opposition to Judge Cynthia A. Holloway's Motion to Stay Depositions, p. 2, para 3).

Respondent filed both Motions to Compel and for Protective Order on January 31, 2000 before the Hearing Panel.

3. Moreover, the Hearing Panel's Order addressed both the Motion for Protective Order and the Motion to Compel. (See Order on Motions for Protective Order and to Compel, attached as Exhibit A). In pertinent part, the Order states "[t]he Motion for Protective Order of January 31, 2001, is denied and the depositions scheduled for February 26-28, 2001 made [sic] proceed." Id. Accordingly, Respondent sought relief from the Judicial Qualifications Commission Hearing Panel prior to seeking review from the Florida Supreme Court.

4. Further, this Court has exclusive jurisdiction concerning judicial disciplinary matters. The Florida Supreme Court may "accept reject, or modify in whole or in part the findings, conclusions and recommendation of the commission." Fla. Const. Art. 5. § 12. Accordingly, it is procedurally appropriate for this Court to review the finding of the Hearing Panel.

WHEREFORE, and by reason of the foregoing, the Honorable Cynthia A. Holloway respectfully submits that Respondent's Motion to Stay is appropriately before this Court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of February, 2001, the original of the foregoing Judge Cynthia A. Holloway's Response to the Judicial Qualifications Commission's Motion in Opposition has been furnished by UPS overnight delivery and facsimile transmission to: The Honorable Thomas D. Hall, Clerk, Supreme Court of Florida, 500 South Duval Street, Tallahassee, Florida 32399-1927 with true and correct copies by U.S. Mail and facsimile transmission to: Beatrice A. Butchko, Esquire, Kaye, Rose & Maltzman, LLP, One Biscayne Tower, Suite 2300, 2 South Biscayne Boulevard, Miami, Florida 33131; and by U.S. Mail to John Beranek, Esquire, General Counsel, Ausley & McMullen, Washington Square Building, 227 Calhoun Street, P. O. Box 391, Tallahassee, Florida 32302 and Honorable James R. Jorgenson, Chair, Hearing Panel, Third District Court of Appeals, 2001 S.W. 117th Avenue, Miami, Florida 33175-1716.

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